

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 2000-581-C - ORDER NO. 2001-287

APRIL 2, 2001

IN RE: Application of Atlantic.net Broadband, Inc.	)	ORDER GRANTING
for a Certificate of Public Convenience and	)	CERTIFICATE FOR
Necessity to provide Local Exchange	)	LOCAL SERVICES
Telecommunications Services within the State	)	
of South Carolina.	)	

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This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Atlantic.net Broadband, Inc. (Atlantic.net Broadband or the Company) requesting a Certificate of Public Convenience and Necessity to provide local exchange telecommunications services in certain geographic areas within the State. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2000) and Section 253 of the Telecommunications Act of 1996.

By letter, the Commission's Executive Director instructed Atlantic.net Broadband to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. Atlantic.net Broadband complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC") on January 26, 2001.

On February 23, 2001, counsel for SCTC filed with the Commission a Stipulation in which Atlantic.net Broadband stipulated that it would seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until Atlantic.net Broadband provided written notice of its intent prior to the date of the intended service. Atlantic.net Broadband also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Atlantic.net Broadband agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to Atlantic.net Broadband to provide local services provided the conditions contained in the Stipulation are met. The Stipulation was entered into the evidence of the hearing, and the Staff requested that the Stipulation be approved by the Commission. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on March 13, 2001, at 2:30 p.m., in the Commission's Hearing Room. The Honorable William Saunders, Chairman, presided. Atlantic.net Broadband was represented by Brian Katonak, Esquire. Kevin Hayes, Director of CLEC Operations, appeared and testified on behalf of the Company. Jocelyn G. Boyd, Staff Counsel, represented the Commission Staff. Andreas J. Corley, Auditor, and David S. Lacoste, Engineer, presented testimony on behalf of the Commission Staff.

Atlantic.net Broadband was incorporated on October 15, 1998, for the purpose of providing local exchange telephone service. The Company was granted its CLEC authority by the Florida Public Service Commission on April 17, 1999. Atlantic.net Broadband seeks to provide its customers with local line service. This service provides the customer with a single, voice-grade communications channel and includes a telephone number. Additionally, the Company may block the following types of calls: long distance, collect calls, operator-assisted calls, directory assistance calls, third number billed calls, or any service that may be billed to a customer's telephone number. Atlantic.net Broadband will also provide optional features such as Call Waiting, Call Forwarding, Three-Way Calling, and Caller ID Name and Number.

Hayes testified Atlantic.net Broadband has the technical and financial ability to provide local telecommunications services in South Carolina. Additionally, Hayes testified the Company has the ability to satisfy its financial obligations concerning expenses related to its leases and expense associated with the operation of a competitive local exchange carrier. Atlantic.net Broadband intends to offer its services throughout the State of South Carolina; the Company intends to resell BellSouth Telecommunications, GTE (Verizon), Sprint, and ALLTEL services. The Company has started negotiations with incumbent local exchange carriers in South Carolina.

According to the record, the managerial team of Atlantic.net Broadband had telecommunications experience prior to joining the Company. Manoj "Marty" Puranik is the President and Chief Executive Officer and Jose F. Sanchez is the Vice President of Atlantic.net Broadband. Puranik and Sanchez co-founded Internet Connect Company,

Inc. in Gainesville, Florida, in 1994. In 1995, Internet Connect Company launched one of the first commercial Internet services in North Florida. The Company continued to sell computers and software until ceasing retail operations in the Spring of 1996 to focus completely on Internet connectivity. According to the record, Atlantic.net Broadband is focused on expanding its network capabilities throughout the southeastern United States and adding to its business-oriented customer base. Ethan I. Meiselman and Michael D. Jackson are the Company's Senior Network Engineers. Meiselman has been with the Company since February 1999 and he has four years' experience in the telecommunications industry and three years' experience with computer networking. Jackson has five years' experience with computer networking.

The record reveals Atlantic.net Broadband has never had a complaint or judgment levied against it nor has the Company ever been investigated or sanctioned by any regulatory authority for service or billing irregularities. Additionally, Atlantic.net Broadband's certification has never been revoked or denied in any jurisdiction. Hayes testified that certification of Atlantic.net Broadband will increase the level of local competition in South Carolina and the Company will meet all requirements and standards set by the Commission.

Corley testified that he reviewed the financial statements of the Company's parent Atlantic.net dated December 31, 2000. His review of these statements indicated a Company that is in the start-up mode. The balance sheet indicated that cash made up 24% of the Applicant's total assets and the current ratio was .97, which is an indication of the Company's ability to meet its current liabilities with its current assets. Corley also

testified that retained earnings, a reflection of past earnings, was negative, as was stockholders' equity. Additionally, the Applicant had no long term debt. Corley concluded by stating that based on the financial statements filed by Atlantic.net Broadband dated December 30, 2000, the Company is currently in a good position financially. Moreover, the Company is still in the start-up mode and is in a position to fund its operation in South Carolina.

Lacoste testified that he reviewed the Company's application and tariff. Regarding the Company's request for permission to maintain its financial records in accordance with Generally Accepted Accounting Principles instead of the Uniform System of Accounts and its request that the Company not be required to publish a local exchange directory as required by Commission Regulation 103-631, Lacoste testified that Staff did not object to the Commission's granting these two requests as long as the Company's books and records can be made reasonably available for Staff's review and arrangements are made to have the Company's customers' phone numbers published within the incumbent local company's directory. Regarding the Company's request that reporting requirements be waived, Lacoste testified that it is Staff's position that quarterly trouble reports, major service outages, annual financial information and other routine reports should be filed with Commission. Lacoste continued by stating that such reports are necessary so that service quality and financial conditions can be adequately monitored – from both the individual company standpoint and from an overall statewide perspective. Therefore, Staff recommends that the Company's request for waiver of the Commission's reporting requirements be denied. Lacoste also recommended changes to

the Company's tariff regarding the following issues: Obligations of the Customer, Payment Arrangements, Gross Receipt Tax, Billing and Collection, Discontinuance of Service, Cancellation of Service by the Customer, Returned Check Charges, Customer Deposits, and Late Fees.

Upon consideration of the application and the record from the hearing, the Commission makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Atlantic.net Broadband is a corporation that is duly organized under the laws of Florida and has received authority to operate as a foreign corporation in the State of South Carolina.

2. Atlantic.net Broadband wishes to provide local exchange services within the State of South Carolina.

3. The Commission finds that Atlantic.net Broadband possesses the technical, financial, and managerial resources sufficient to provide the service requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 2000).

4. The Commission finds that Atlantic.net Broadband's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 2000).

5. The Commission finds that Atlantic.net Broadband will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 2000).

6. The Commission finds that Atlantic.net Broadband will provide services which will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 2000).

7. The Commission finds that the provision of local exchange service by Atlantic.net Broadband “does not otherwise adversely impact the public interest.” S.C. Code Ann. §58-9-280(B)(5) (Supp. 2000).

### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Atlantic.net Broadband to provide competitive intrastate local exchange services within the State of South Carolina. The terms of the Stipulation between Atlantic.net Broadband and the SCTC (attached hereto as Exhibit 1) are approved and adopted as a portion of this Order. Any proposal to provide local services to rural service areas is subject to the terms of the Stipulation. In accordance with the Stipulation, Atlantic.net Broadband may not provide any local service to a customer located in a rural incumbent LEC’s service area, unless or until Atlantic.net Broadband provides such rural incumbent LEC and the Commission, written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. The Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while it conducts any proceeding incident to the Petition or upon the Commission’s own Motion, provided that the Commission can further suspend

the implementation date upon a showing of good cause. It is specifically provided that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Order in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications as they may be entitled. If, after notice from Atlantic.net Broadband that it intends to serve a customer located in a rural incumbent LEC's service area, and the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or if the Commission institutes a proceeding of its own, no service may be provided by Atlantic.net Broadband in a rural incumbent LEC's service area pursuant to this Order without prior and further Commission approval.

2. Atlantic.net Broadband shall file a copy of its Billing Form, and prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. Any proposed change in the rates reflected in the tariff for local services which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2000).

3. Atlantic.net Broadband shall resell or provide the services of only those companies authorized to provide telecommunications services in South Carolina by this Commission.

4. Atlantic.net Broadband shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any



and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. Atlantic.net Broadband shall file annual financial information in the form of annual reports and gross receipt reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Atlantic.net Broadband shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings. The form the Company shall use to file annual financial information with the Commission can be found at the Commission's web site at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). This form is entitled "Annual Report for Competitive Local Exchange Carriers".

6. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Atlantic.net Broadband to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office

of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, Atlantic.net Broadband shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

7. The Company shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the names of the authorized representatives to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

Atlantic.net Broadband shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

8. Atlantic.net Broadband requested waivers from certain Commission regulations and requirements. Specifically, Atlantic.net Broadband requested waivers from (1) the requirement found in Rule 103-631 to publish and distribute local exchange directories; (2) any requirement to maintain books and records in compliance with the USOA; and (3) any reporting requirements which, although applicable to ILECs, are not

applicable to competitive providers such as Atlantic.net Broadband because such requirements (i) are not consistent with the demands of the competitive market; or (ii) they constitute an undue burden on a competitive provider, thereby requiring an inefficient allocation of its limited resources. The Commission grants the request for waiver from the requirement to publish directories as Atlantic.net Broadband has indicated that it will contract with the incumbent local exchange company to include the customers of Atlantic.net Broadband in the directory listing of the ILEC directory. Further, the Commission grants Atlantic.net Broadband's request that it be allowed to keep its books and records in accordance with GAAP rather than the USOA. Regarding the Company's request for a waiver of reporting requirements, Atlantic.net Broadband is directed to file all reports with this Commission that are required of any other competitive local exchange carrier certificated by this Commission. Pursuant to the Commission's regulations, the Company shall file a CLEC Service Quality Quarterly Report with the Commission. The proper form for this report is Form #110 and can be found at the Commission's website at [www.psc.state.sc.us/forms/default.htm](http://www.psc.state.sc.us/forms/default.htm). Atlantic.net Broadband is directed to comply with all Commission regulations, unless a regulation is specifically waived by the Commission.

9. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director  
(SEAL)

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

Docket No. 2000-581-C

Re: Application of Atlantic.net Broadband, Inc.     )  
for a Certificate of Public Convenience and     )  
Necessity to Provide Resold Local Exchange     )  
Telecommunications Services in the State of     )  
South Carolina     )  
\_\_\_\_\_ )

**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Atlantic.net Broadband, Inc. ("Atlantic.net") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Atlantic.net's Application. SCTC and Atlantic.net stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Atlantic.net, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Atlantic.net stipulates and agrees that any Certificate which may be granted will authorize Atlantic.net to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Atlantic.net stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Atlantic.net stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Atlantic.net provides such rural incumbent LEC and the Commission with written notice of its

intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Atlantic.net acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Atlantic.net stipulates and agrees that, if Atlantic.net gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Atlantic.net will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Atlantic.net acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Atlantic.net, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Atlantic.net agrees to abide by all State and Federal laws and to participate, to the

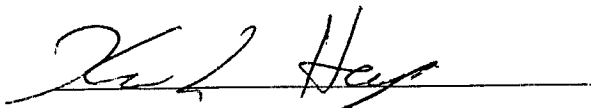
extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

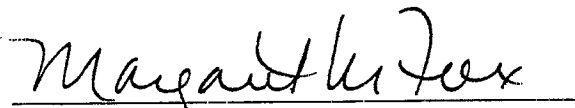
9. Atlantic.net hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 6 day of February, 2000.

Atlantic.net Broadband, Inc.:

South Carolina Telephone Coalition:

  
Kevin L. Hayer

  
M. John Bowen, Jr.  
Margaret M. Fox  
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Post Office Box 11390  
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(803) 799-9800

Attorneys for the South Carolina Telephone Coalition

## ATTACHMENT A

### South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.  
Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Heath Springs Telephone Company Inc.  
Home Telephone Company, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company



BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

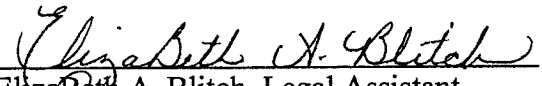
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Necessity to Provide Resold Local Exchange )  
Telecommunications Services in the State of )  
South Carolina )  
\_\_\_\_\_ )

**CERTIFICATE OF  
SERVICE**

I, ElizaBeth A. Blitch, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

Mr. Kevin Hayes  
Atlantic.net Broadband, Inc.  
2815 NW 13th Street, Suite 201  
Gainesville, Florida 32609

  
ElizaBeth A. Blitch, Legal Assistant  
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(803) 799-9800

February 23, 2001

Columbia, South Carolina